

MORRISON & FOERSTER LLP
MICHAEL A. JACOBS (Bar No. 111664)
mjacobs@mofo.com
MARC DAVID PETERS (Bar No. 211725)
mdpeters@mofo.com
DANIEL P. MUINO (Bar No. 209624)
dmuino@mofo.com
755 Page Mill Road, Palo Alto, CA 94304-1018
Telephone: (650) 813-5600 / Facsimile: (650) 494-0792

BOIES, SCHILLER & FLEXNER LLP
DAVID BOIES (Admitted *Pro Hac Vice*)
dboies@bsfllp.com
333 Main Street, Armonk, NY 10504
Telephone: (914) 749-8200 / Facsimile: (914) 749-8300
STEVEN C. HOLTZMAN (Bar No. 144177)
sholtzman@bsfllp.com
1999 Harrison St., Suite 900, Oakland, CA 94612
Telephone: (510) 874-1000 / Facsimile: (510) 874-1460

ORACLE CORPORATION
DORIAN DALEY (Bar No. 129049)
dorian.daley@oracle.com
DEBORAH K. MILLER (Bar No. 95527)
deborah.miller@oracle.com
MATTHEW M. SARBORARIA (Bar No. 211600)
matthew.sarboraria@oracle.com
500 Oracle Parkway, Redwood City, CA 94065
Telephone: (650) 506-5200 / Facsimile: (650) 506-7114

Attorneys for Plaintiff
ORACLE AMERICA, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.

Plaintiff,

v.

GOOGLE INC.

Defendant.

Case No. CV 10-03561 WHA

**OUTLINE OF ORACLE AMERICA,
INC.'S RULE 50(A) MOTION AT
THE CLOSE OF ALL EVIDENCE IN
PHASE TWO**

Dept.: Courtroom 8, 19th Floor
Judge: Honorable William H. Alsup

I. INTRODUCTION

II. STATEMENT OF FACTS

III. LEGAL STANDARD FOR JUDGMENT AS A MATTER OF LAW

IV. NO REASONABLE JURY COULD FIND THAT GOOGLE DID NOT INFRINGE THE ASSERTED CLAIMS OF THE '104 PATENT

A. Android resolve.c infringes claims 11, 39, 40, and 41 of the '104 patent

1. Dalvik bytecode instructions contain symbolic references

B. Android dexopt infringes claims 27 and 29 of the '104 patent

1. Dalvik bytecode instructions contain symbolic references

2. Dexopt resolves symbolic references “dynamically rather than statically”

3. Under the correct claim construction, dexopt resolves symbolic references “dynamically rather than statically”

V. NO REASONABLE JURY COULD FIND THAT GOOGLE DID NOT INFRINGE THE ASSERTED CLAIMS OF THE '520 PATENT

A. Android infringes claims 1 and 20 of the '520 patent

1. Android dx tool simulates execution of static array initialization

VI. GOOGLE’S EQUITABLE DEFENSES FAIL

A. Google Has Not Shown that Equitable Estoppel Bars Oracle’s Patent Infringement Claims

B. Google Has Not Shown that the Doctrine of Laches Applies to Oracle’s Patent Infringement Claims

C. Google Has Not Shown that Oracle or Sun Waived Its Right to Assert Patent Infringement Claims

D. Google Has Not Shown that Oracle or Sun Gave It an Implied License to Use Oracle’s Patents

VII. ALTERNATIVE GOOGLE DEFENSES THAT GOOGLE PLED BUT DID NOT PRESENT TO THE JURY FAIL

A. Google Has Not Shown Patent Misuse

B. Google Has Not Shown Use By The United States

C. Google Has Not Shown that Oracle or Sun Gave It an Express License to Use Oracle’s Patents

D. Google Has Not Shown that Oracle's Patent Infringement Claims Are Subject to the Doctrine of Unclean Hands

VIII. CONCLUSION

Dated: May 15, 2012

MICHAEL A. JACOBS
MARC DAVID PETERS
DANIEL P. MUINO
MORRISON & FOERSTER LLP

By: /s/ Michael A. Jacobs

Attorneys for Plaintiff
ORACLE AMERICA, INC.